

RESPONSE DEADLINE: December 29, 2014 at 4:00 p.m. (Eastern Time)

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Chapter 11

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Case No. 08-13555 (JMP)

)	Jointly Administered
In re:)	
)	
LEHMAN BROTHERS HOLDINGS INC., et al.)	
)	
Debtors,)	
)	

**RESPONSE OF MOORE MACRO FUND, LP TO PLAN ADMINISTRATOR'S
FOUR HUNDRED EIGHTY-SEVENTH OMNIBUS OBJECTION TO CLAIMS
(PURPORTED SATISFIED GUARANTEE CLAIMS)**

Moore Macro Fund, LP ("Moore Macro") hereby files its response to the Plan Administrator's four hundred eighty-seventh omnibus objection to claims (the "Objection").

BACKGROUND

1. Moore Macro and Lehman Brothers Commercial Corporation ("LBCC") entered into an International Swap Dealers Association, Inc.¹ form of Master Agreement (the "ISDA Agreement") on or about July 24, 2008.

2. LBCC's obligations under the ISDA Agreement were guaranteed by Lehman

¹ This organization is now known as the International Swaps and Derivatives Association, Inc. ("ISDA").

Brothers Holdings, Inc. (“LBHI”), its “Credit Support Provider” under the ISDA Agreement, pursuant to a guarantee by LBHI in favor of Moore Macro (the “LBHI Guarantee”).

3. On September 15, 2008, LBHI commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York.

4. The institution of LBHI’s chapter 11 case constituted an “Event of Default” under the ISDA Agreement, whereby LBCC was the “Defaulting Party” and Moore Macro was the “Non-defaulting Party” as those terms are defined in the ISDA Agreement.

5. In the exercise of its rights as the Non-defaulting Party, Moore Macro, on September 15, 2008, promptly sent LBCC a notice of its intent to terminate all outstanding transactions (the “Transactions”) under the ISDA Agreement and designated September 15, 2008 as the “Early Termination Date” pursuant to Section 6(a) of the ISDA Agreement.

6. On June 17, 2009, Moore Macro sent LBCC a statement pursuant to Section 6(d) of the ISDA Agreement showing, inter alia, the calculations of the amounts owing after termination of the Transactions (the “Calculation Statement”), with a net amount owed by LBCC to Moore Macro.

7. As the beneficiary under the LBHI Guarantee, Moore Macro served a demand on LBHI in respect of the amount owed by LBCC to Moore Macro, and guaranteed by LBHI, as set forth in the Calculation Statement.

8. On September 21, 2009, Moore Macro filed proof of claim # 33510 against LBCC, the primary obligor (the “LBCC Claim”), and proof of claim # 33511 against LBHI, as guarantor (the “LBHI Claim,” and together with the LBCC Claim, the “Claims”), in

respect of LBCC and LBHI's obligations under the ISDA Agreement and the LBHI Guarantee, respectively. Thereafter, Moore Macro filed Derivative Questionnaire and Guarantee Questionnaire responses in respect of the Claims (together, the "Questionnaire Responses") in accordance with the bar order dated July 2, 2009.

9. The face value of the Claims was \$2,320,398, which was the amount owed to Moore Macro under the Transactions as of the date that the Claims were filed. Moore Macro reserved its rights to seek further interest and attorneys' fees to which it was entitled under the ISDA Master.

10. With respect to interest, Moore Macro reserved its right to claim additional interest, including in its Questionnaire Responses, where it included the following:

Please note that, in addition to the interest referred to above, interest will continue to accrue from the date of the filing of the Proof of Claim and the creditor is entitled to claim such amounts under the relevant agreement.

11. With respect to attorneys' fees, Moore Macro reserved its rights to claim such fees, including in its Questionnaire Responses, where it included the following:

Please note that, in addition to the amount referred to above, the creditor may continue to incur expenses and the creditor is entitled to claim such amounts under the relevant agreement.

12. On November 26, 2014, LBHI, as Plan Administrator under the Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and Its Affiliated Debtors for the entities in the above-captioned chapter 11 cases, filed the Objection. The Objection seeks to expunge the LBHI Claim on the ground that the LBCC Claim is "Disputed and fully reserved for in Cash by the Primary Obligor[]" in the asserted amount of the Primary Claim." Objection ¶ 1. LBHI provided Moore Macro with notice of the Objection on the same day.

13. Exhibit A to the Objection specifies that the "Reason for Proposed Disallowance"

of the LBHI Claim is that “LBCC is reserving 100% of the filed amount of the Primary Claim,” a reserve of \$2,320,398.

ARGUMENT

14. The Plan Administrator’s rationale is that because LBCC has supposedly fully reserved for the LBCC Claim, the LBHI Claim is superfluous and should be expunged. *See* Objection ¶ 15 (“The asserted amounts of the Satisfied Guarantee Claims that correspond to Disputed Primary Claims against the Primary Obligor are equal to or less than the asserted amount of the Primary Claims.”).

15. LBCC’s reserve, however, only includes the face value of the Claims. It does not cover the interest and attorneys’ fees incurred after the Claims were filed that form an explicit part of the Claims, and which increase on a daily basis (the “Unreserved Amount”).

16. Moore Macro is left exposed to the extent of the Unreserved Amount because LBCC has only reserved the face value of the Claims.

17. Moreover, to the extent LBCC ultimately is unable to pay the Unreserved Amount, Moore Macro has a right under the ISDA Agreement to be compensated for it through the LBHI Claim. But if the Objection is granted, Moore Macro will lose its right to collect on the LBHI Claim and the benefit of its bargain under the ISDA Agreement. A guarantee claim is not discharged until the underlying debt has been paid in full. *See, e.g., In re Lightsquared Inc.*, Case No. 12-12080 (SCC), 2014 Bankr. LEXIS 4577, at *22-23 (Bankr. S.D.N.Y. Oct. 30, 2014) (refusing to disallow guarantee claims prior to payment of the primary debt).

CONCLUSION

WHEREFORE, for the reasons stated above, Moore Macro respectfully requests that

the Objection be denied, the LBHI Claim be preserved, and that the Court grant such other and further relief as is just and proper.

Dated: New York, New York
December 29, 2014

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Certificate of Service

I hereby certify that on December 29, 2014, I caused the foregoing document to be electronically filed with the Clerk of the District Court using the CM/ECF system which sent notification of such filing to the parties registered for electronic service via the Court's electronic transmission facilities, and caused it to be mailed by the United States Postal Service, first class mail, to the following parties:

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Dated: New York, New York
December 29, 2014

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